

**MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
Monday, February 6, 2017**

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Monday, February 6, 2017 at Ladue City Hall.

The following members of the board were present:

Ms. Liza Forshaw
Ms. Laura Long
Ms. Elizabeth Panke
Mr. Daniel Welsh
Mr. Lee Rottmann

Also present were: Mr. William Penney, building Official; Ms. Anne Lamitola, Director of Public Works; Andrea Sukanek, City Planner and Ms. Erin Seele, City Attorney. Mayor Nancy Spewak was also in attendance.

Ms. Forshaw called the meeting to order at 4:00 p.m.

Notice of Public Hearing, as follows:

**NOTICE OF PUBLIC HEARING
ZONING BOARD OF ADJUSTMENT
CITY OF LADUE, MISSOURI
DOCKET NUMBER 1220**

Notice is hereby given that the Zoning Board of Adjustment of the City of Ladue, St. Louis County, Missouri, will hold a public hearing on a petition submitted by Greg and Marcella Stevens for the property at 1 Glenview Road, requesting relief from the ruling of the Building Official denying a permit for a sport court in the front yard of the property, located in the C Zoning District, per the Ladue Zoning Ordinance #1175, Section IV-A(4)(c).

The hearing will be held at 4:00 p.m. on Monday, February 6th, 2017, at the Ladue City Hall, 9345 Clayton Road.

The hearing will be public and anyone interested in the proceedings will be given the opportunity to be heard.

Pursuant to Section 610.022 RSMo., the Zoning Board of Adjustment could vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney as provided under section 610.021 (1) RSMo.

Stanley Walch, Chairman

Zoning Board of Adjustment

Ms. Forshaw asked Building Official Will Penney for an explanation with regard to the denial of the application. Mr. Penney stated that application was denied for a permit for a sport court in the front yard of a property which is not permitted.

Ms. Forshaw introduced the following exhibits to be entered into the record:

- Exhibit A – Zoning Ordinance 1175, as amended
- Exhibit B – Public Notice of the Hearing
- Exhibit C – Permit denial dated December 2, 2016
- Exhibit D – List of residents sent notice of the meeting
- Exhibit E – Letter from the resident requesting the variance dated December 29, 2016
- Exhibit F – Entire file related to the application
- Exhibit G – Sports court technical specifications

The court reporter administered the oath to Mr. Greg Stevens, homeowner, and Mr. Mark Critchfield, project architect.

Mr. Stevens explained that there is very little room on the property behind the existing home to locate the proposed sports court improvements.

Mr. Welsh asked which neighbors have been contacted. Mr. Stevens explained to the Board that he sent a letter to some of the neighbors.

Ms. Forshaw asked what portion of the sport court will be visible from the roadway. Mr. Critchfield, project architect, explained that the court will not be highly visible due to the vegetation on the lot and proposed grading. He stated that the front yard is very deep and there are no other locations on the property to place the sport court. Ms. Forshaw stated that it could be placed to the west of the home. Mr. Stevens responded that the topography of the land drops off behind the home preventing it from being located there and noted that locating the sport court to the west of the home would not be a convenient location. Mr. Stevens noted that Hornbeam trees could be installed along the sport court for screening.

Mr. Critchfield clarified that a berm will not be constructed, but that the grades will be modified to be cohesive with the new pool that is being installed currently and the proposed sport court.

A discussion ensued with regard to landscaping and Mr. Stevens offered that he is willing to install landscaping per the request of the Board.

Mr. Critchfield stated that the posts could be removed in the winter of the sport court to lessen its visibility.

Ms. Marjorie Ivey of Godwin Lane came forward and stated that Hornbeams are deciduous, not evergreen trees.

The public comment period ended.

Mr. Rottmann noted that different locations on the property could be appropriate for the location of the sport court.

Ms. Panke noted the size of the property. She noted that another front yard sport court case has come before the Board, but that particular lot was much smaller and therefore that court more highly visible to neighbors.

Mr. Welsh noted that this subdivision is densely vegetated. Mr. Welsh inquired whether the Board should dictate specific plants and trees for screening or whether landscaping requirements be more broad. Mr. Critchfield stated that the applicant is willing to comply with the landscape requirements in the zoning ordinance which outline quantities of plant materials.

Ms. Long asked what hardships and practical difficulties exist on the property that would compel the Board to approve this variance request.

Ms. Forshaw stated that in general, sports courts, are not desired in front yards. She noted there are other locations on the property, such as to the west, where the court could be located. She noted that a sport court is an amenity, not a necessity, and that there are several considerations to be evaluated with this request.

Mr. Welsh noted that the sport court could be located elsewhere on the property and there is no evidence to support a hardship.

Mr. Critchfield noted that the Stevens family owns the property to the west. A discussion ensued regarding where the property line between 1 Glenview Road and 3 Glenview Road, the parcel to the west, is located. It was concluded that the plat does not include this information and that a revised plan is needed.

Ms. Forshaw noted that a continuance could be granted so that the applicant could determine if there is neighborhood support and to evaluate alternate locations on the property.

Mr. Rottmann sought clarification regarding whether an accessory structure could be constructed on a lot that has no home and Ms. Lamitola and Mr. Penney stated that it could not.

Ms. Forshaw noted that four of five votes are required in order to obtain any variance.

Mr. Critchfield asked if there could be an approval contingent on landscaping and Ms. Forshaw noted that there are reservations about the project and that a continuance is the best course of action.

Mr. Penney requested a revised site plan that accurately shows the property lines.

Mr. Welsh encouraged Mr. Stevens to obtain neighbor input on the project and on landscaping. Mr. Stevens agreed to share the plans with the neighbors and obtain feedback. Mr. Stevens requested a continuance and it was granted.

DOCKET 1220

DATE OF HEARING

February 6, 2017

DESCRIPTION OF PROPERTY


1 Glenview Road

CAUSE FOR APPEAL

Relief from the ruling of the Building Official denying a permit for a sport court in the front yard of the property, located in the C Zoning District, per the Ladue Zoning Ordinance #1175, Section IV-A(4)(c).

RULING OF THE BOARD

After a discussion of the facts presented, the board continued the request for a variance for a sport court in the front yard of the property, located in the C Zoning District, per the Ladue Zoning Ordinance #1175, Section IV-A(4)(c).



Ms. Liza Forshaw, Vice-Chairman.

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A P P E A R A N C E S:

BOARD MEMBERS:

- Ms. Liza Forshaw, Chairman
- Ms. Laura Long
- Ms. Elizabeth Panke
- Mr. Lee Rottmann
- Mr. Dan Welsh

Also Present:

- Ms. Anne Lamitola
- Mr. Will Penney
- Ms. Andrea Sukanek
- Ms. Erin Seele, City Attorney
- Mr. John Fox
- Mayor Nancy Spewak
- Mr. Greg Stevens
- Mr. Mark Critchfield
- Ms. Marjorie Ivey

Court Reporter:
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ZONING BOARD OF ADJUSTMENT - FEBRUARY 6, 2017

1 (The Meeting of the Zoning Board of
2 Adjustment of the City of Ladue, having previously
3 been called to order at 4:00 p.m., continued as
4 follows.)

5 CHAIRPERSON FORSHAW: We will proceed to
6 Docket Number 1220, Greg and Marcella Stevens, 1
7 Glenview Road, requesting relief from the ruling of
8 the Building Official denying a permit for a sport
9 court in the front yard of the property, located in
10 the C Zoning District, per the Ladue Zoning Ordinance
11 Number 1175, Section IV-A(4)(c).

12 First, will the building official please
13 explain the reason or reasons the plans were
14 disapproved so the audience and members of the board
15 have a clear understanding of the issues in this case.

16 MR. PENNEY: Permit application was
17 submitted for approximately 84-feet by 54-feet sports
18 court for this property at the location that winds up
19 being in the front yard, which is not allowed by
20 ordinance.

21 CHAIRPERSON FORSHAW: Thank you. Next the
22 following documents will be included in the record as
23 exhibits of this appeal.

24 The public notice of this hearing, which
25 will be marked Exhibit B.

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1 The denial letter from the Building
2 Official dated December 2nd, 2016, which will be
3 marked Exhibit C.

4 The list of residents to whom the notice of
5 public hearing has been sent, which will be marked
6 Exhibit D.

7 The appellant's letter requesting a
8 variance dated December 29, 2016, and any other
9 letters of support or opposition to the request for
10 variance, which will be marked as Exhibit E. Are
11 there any other letters, Ms. Lamitola?

12 MS. LAMITOLA: No, there are not.

13 CHAIRPERSON FORSHAW: The entire file
14 pertaining to the application, including all memoranda
15 from staff and consultants to the Zoning Board of
16 Adjustment and the City of Ladue, which will be marked
17 as Exhibit F.

18 Ms. Lamitola, were any additional letters
19 from the public received after distributing the
20 packets to the board members?

21 MS. LAMITOLA: No. Let me triple-check
22 here. No, there were not.

23 CHAIRPERSON FORSHAW: Thank you. Now, will
24 the appellant or anyone else who wants to speak on the
25 appellant's behalf please come forward, give your name

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1 to the court reporter and she will swear you in.

2 (At this time Mr. Greg Stevens and Mr. Mark
3 Critchfield were sworn in by the court reporter.)

4 MR. STEVENS: My wife and I own the
5 property. It's fairly large, but the house on the
6 property is situated toward the back, and we have
7 little room behind the house. Apparently there is a
8 patio, and then to one side of the patio there is this
9 small little courtyard with a stone wall, and the
10 other direction is a garage.

11 If we were to put a sport court behind the
12 house it really wouldn't fit anywhere unless we push
13 way out to the perimeter. You would have to site it
14 over here. The only way we could put a sport court
15 behind the front of the house, the front of the house
16 is here, would be to put it down here where there is a
17 creek and some erosion work which MSD has done. If we
18 put it down here, which is a drainage outlet which
19 would interfere with building anything behind the
20 house here.

21 We did adjoin some of this property, which
22 we own, to this property to allow for the pool, and we
23 could have put the sport court over there. It would
24 be so far out of our range of monitoring as parents
25 for our kids. We had hoped this would be viewable

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1 from the house, preferably. It would be easiest for
2 us to place it on a side yard instead of far out in
3 the distance on either piece.

4 The other advantage I thought of putting it
5 here would it creates more of a buffer. There is
6 still a lot of trees and shrubs here. There are
7 neighbors here, and I think they would be relieved to
8 have it that far away from their house instead of that
9 far away from their house.

10 MR. CRITCHFIELD: The preservation of the
11 trees.

12 MR. STEVENS: Correct.

13 MS. PANKE: What is the setback? If you
14 were to put it behind the pool house.

15 MR. CRITCHFIELD: There is an accessory
16 setback.

17 MS. PANKE: Is this considered an accessory
18 building?

19 MR. CRITCHFIELD: It would be, I believe,
20 yes.

21 CHAIRPERSON FORSHAW: Is a sports court
22 considered an accessory structure?

23 MR. PENNEY: Yes.

24 MR. CRITCHFIELD: 5-foot accessory setback.

25 MR. PENNEY: That's possible. I don't know

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1 if that's --

2 MR. CRITCHFIELD: It's a 5-foot accessory
3 and a 30-foot rear yard setback.

4 MR. WELSH: It's either an accessory
5 building or a structure. Either way it falls in the
6 same code division.

7 MR. ROTTMANN: Have you talked to any of
8 the neighbors?

9 MR. STEVENS: I have talked to the
10 neighbors on our property. I'm a trustee. I have
11 talked to these people. I have talked to Hal Walter
12 (phonetic) --

13 MR. WELSH: I'm sorry, when you say "these
14 people" who are you talking about?

15 MR. STEVENS: This is the beginning of the
16 Glenview subdivision. And we have a neighbor here,
17 here, up on 9, 10, one there. And I think half of our
18 neighbors know we are planning this.

19 MR. WELSH: The street comes up and makes a
20 right turn into a cul-de-sac up here?

21 MR. STEVENS: Uh-huh.

22 MR. WELSH: Have you talked to everybody
23 who stands to drive by and see this sports court?

24 MR. STEVENS: No. There is one homeowner
25 here that I haven't talked to.

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1 MR. CRITCHFIELD: But you have trustee
2 approval for this.

3 MR. STEVENS: I have trustee approval.
4 David Oetting is here. He has seen it and likes it.

5 MS. PANKE: Have we received a letter?

6 CHAIRPERSON FORSHAW: Do we have any
7 letters in the file?

8 MS. LAMITOLA: No.

9 MR. WELSH: That includes Oetting, who is
10 at 8, is right here. And Remis is up here?

11 MR. STEVENS: Remis is there.

12 MR. WELSH: And then somebody else is here?

13 MR. STEVENS: Jim White and Nancy Schmidt
14 are there.

15 MR. WELSH: And they all received this
16 letter, to your knowledge?

17 MR. STEVENS: To my knowledge. I haven't
18 spoken to the Remises.

19 CHAIRPERSON FORSHAW: Tell us -- would one
20 of you share with us what you think would be visible
21 from Glenview of this new sport court?

22 MR. CRITCHFIELD: I don't think very much,
23 if any, to be honest with you. Because there are
24 proposed grades right here to -- actually, it's going
25 to be bermed around here slightly. I think it's the

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1 intent of the Stevens to put plant material around
2 that to obscure it to a certain extent.

3 The other thing I think that is really
4 important is, there are some major mature trees around
5 here, and Greg and Marcella Stevens have tried very
6 hard not to disturb any of this.

7 And I think Greg alluded to this earlier,
8 that this is sort of an artificial deep front yard
9 because the placement of the front and the side of the
10 house which is literally right here, right in this
11 line. So there is really no other place to put it
12 back here. And the property drops off severely.
13 There is a storm creek that runs through here, and
14 this is all densely wooded.

15 CHAIRPERSON FORSHAW: But it could be
16 placed to the west?

17 MR. ROTTMANN: I was going to say, you
18 could put it behind the pool house.

19 MR. STEVENS: If we joined this property to
20 this property it could be done. It wouldn't be like
21 easily observable or monitorable as a parent. In
22 terms of viewability, if I could mention that, I don't
23 think of this so much as a structure. Technically it
24 is. I think it's a concrete pad with -- like an inch
25 thick. The only thing that would project above ground

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1 level would be a basketball loop at either end and
2 some netting behind the basketball.

3 MR. ROTTMANN: How tall is the netting?

4 MR. STEVENS: The netting would be no
5 taller than the basketball hoop. It shows some on
6 these brochures. It's a mesh-like netting. It
7 wouldn't have to be as high as the basketball -- I
8 mean, as high as the pole.

9 MR. CRITCHFIELD: It's as high as 6 feet.

10 MR. STEVENS: I'm not sure. We were
11 talking about something as offered from that company.

12 MR. CRITCHFIELD: The netting can be taken
13 down too.

14 MR. STEVENS: Oh, sure, it would be.

15 MR. WELSH: Let's make sure we are looking
16 at something for the record, Exhibit I.

17 CHAIRPERSON FORSHAW: Exhibit H.

18 MR. WELSH: Let's call this Exhibit H and
19 I.

20 MS. LAMITOLA: What was G?

21 CHAIRPERSON FORSHAW: That was for letters
22 that don't exist, and so it's really Exhibit G.

23 MR. WELSH: Okay. We will call these group
24 Exhibit G.

25 MR. STEVENS: My way of thinking, it's not

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1 so much a structure that has height. We talked about
2 planting a horn-bean barrier around it. We wondered
3 if that would make it more noticeable as a specific
4 area instead of something that you wouldn't really see
5 because it's mostly at ground level.

6 CHAIRPERSON FORSHAW: What is a horn-bean
7 area?

8 MR. STEVENS: A horn-bean is a plant. It's
9 a tall mature evergreen. And if we planted a row of
10 them they would surround it, like a wall of evergreen
11 around it.

12 MR. CRITCHFIELD: That is true.

13 MR. ROTTMANN: Are you thinking about
14 putting those on top of the berm, or without the berm?

15 MR. STEVENS: On top of the berm. It was
16 one idea to conceal this if that's desirable.

17 MR. CRITCHFIELD: Maybe I misspoke. I
18 wouldn't use the term berm as much as I would say
19 there has been an intentional redesign in grades here
20 in order to smooth this out. There is a design intent
21 to sort of not just plop it down, but to actually work
22 with existing drainage patterns, the relationship to
23 the pool there. There is a visibility relationship
24 with the family room.

25 So in terms of the way the Stevens want to

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1 live and use this in conjunction with the relationship
2 to the new pool that's going in, and the family room
3 and the kitchen, which is all within -- you can see
4 out to these various accessory items, that is the
5 ideal place.

6 CHAIRPERSON FORSHAW: Is the netting a
7 permanent structure or is it a mobile thing that goes
8 up and comes down with the seasons?

9 MR. CRITCHFIELD: It can come down. One of
10 the intents was that this would be -- you could use
11 this sport court for various things. You could have
12 basketball, pick-up basketball. Maybe play badminton
13 on it. So, in other words, it had sort of a kit of
14 parts. It would come apart, you take it down, switch
15 out, depending on however you want to use this
16 surface.

17 MR. STEVENS: I think the basketball hoop
18 would be the only permanent. I think it has to be
19 anchored to the ground where it has a plate and screws
20 into it.

21 MR. ROTTMANN: Maybe you can help me out.
22 You are planning on putting trees, evergreen trees of
23 some sort around it?

24 MR. STEVENS: We could. We haven't
25 currently made that plan. Our focus on the

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1 landscaping has been along here where we had to remove
2 some plant material.

3 MR. ROTTMANN: I'm more concerned here.

4 MR. STEVENS: We could, but we thought that
5 would make it more noticeable like we were trying to
6 hide something. We don't think it's going to be that
7 visible from the street. We are willing to.

8 MR. CRITCHFIELD: The change in elevation
9 from here to here, I don't think you would be able to
10 see the surface from the street.

11 MR. ROTTMANN: I would agree.

12 CHAIRPERSON FORSHAW: You could see the
13 posts.

14 MR. CRITCHFIELD: You may be able to see
15 vertical elements coming out of the ground. But,
16 again, I would say the vast majority of those elements
17 can be taken down, stored when it's not in use. You
18 said the basketball hoop would be permanent. But this
19 is something that is meant to be flexible.

20 MR. ROTTMANN: I think we agree with you on
21 the topography. We were there and we saw it. And it
22 is much higher up from the road.

23 MR. STEVENS: Yes. You would not see the
24 pad.

25 MS. LONG: How many homeowners or residents

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1 would drive by?

2 MR. STEVENS: There are three families that
3 are with us at the end of the road. Actually, two.
4 One comes before us. Two.

5 MR. WELSH: So it's Oetting here as one,
6 and then the other two up at the top?

7 MR. STEVENS: Remis is here. Nancy Schmidt
8 and Jim White. But his driveway is here. He actually
9 has two entrances, one here and one here. So he
10 doesn't technically drive past unless he chose to go
11 all the way down here and turn around.

12 CHAIRPERSON FORSHAW: So only two neighbors
13 drive past it, and one of them has supported the
14 project is what you are saying?

15 MR. STEVENS: Yes.

16 MR. WELSH: And the other one you haven't
17 talked to?

18 MR. STEVENS: No.

19 MR. CRITCHFIELD: Do the trustees represent
20 the neighborhood?

21 MR. STEVENS: I thought we did.

22 MR. ROTTMANN: I hope you do.

23 MR. CRITCHFIELD: And the trustees signed
24 off on it; right?

25 MR. STEVENS: Yes.

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1 CHAIRPERSON FORSHAW: And you are one of
2 the trustees?

3 MR. STEVENS: Yes.

4 MR. ROTTMANN: You didn't vote for it.

5 MR. STEVENS: I thought I signed it.

6 CHAIRPERSON FORSHAW: All three trustees
7 endorsed it?

8 MR. STEVENS: Yes.

9 CHAIRPERSON FORSHAW: Have you completed
10 your presentation?

11 MR. STEVENS: Unless there are questions.

12 CHAIRPERSON FORSHAW: Does any other member
13 of the audience wish to comment on the application?
14 Please come forward and be sworn in.

15 (At this time Marjorie Ivey was sworn in by
16 the court reporter.)

17 MS. IVEY: I was sitting in the audience
18 listening, and I would just mention that horn-beans
19 aren't evergreens. They are deciduous trees. That's
20 all I have to say. They lose their leaves. So if
21 that's important, they are not evergreens, they are
22 deciduous trees.

23 CHAIRPERSON FORSHAW: Thank you.

24 MR. STEVENS: Sorry.

25 CHAIRPERSON FORSHAW: Does any member of

ZONING BOARD OF ADJUSTMENT - FEBRUARY 6, 2017

1 the board object to closing the public comment portion
2 of this hearing?

3 MR. WELSH: I just have one more question
4 for you. You keep mentioning Remis up here. I don't
5 see Remis here. Did Remis receive a notification of
6 your potential project?

7 MR. STEVENS: Not from me.

8 MS. LAMITOLA: That's a list of who we
9 mailed the public notice to. The city is responsible
10 for that. We mail the public hearing to everyone on
11 that list, every property owner within 185 feet of the
12 property.

13 CHAIRPERSON FORSHAW: We are wondering if
14 someone is not on the list who you would expect to be
15 on the list.

16 MR. WELSH: They may not know about it.

17 MR. STEVENS: Is this the list?

18 MS. PANKE: So there may be more than 185
19 feet from the property, but they drive by.

20 MR. WELSH: Yes. There clearly is more
21 than 185 feet based on the sheer size of the lot of
22 the subdivision. That was my question.

23 CHAIRPERSON FORSHAW: Okay. Do we have any
24 other questions of the appellant's representatives.
25 Please be seated and we will have our board

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1 discussion. Who would like to begin?

2 MR. ROTTMANN: My only thought is -- two
3 things. One is, I would like to see it over here, but
4 I understand his concern. I understand watching the
5 children or whomever. I mean, they might not be
6 children, they might be adults, playing. But if this
7 did go through I would certainly think that we should
8 have some foliage, not the one that the lady
9 mentioned, but something of an evergreen type that
10 would hide the court from the street. And I'm not
11 sure that that would be a concern as far as hiding it.
12 I think that's maybe what you would want to do, is
13 hide it from the street.

14 MS. PANKE: I have only sat on the board
15 when we have had one other sport court, and that was
16 clearly in a very dense neighborhood and was in the
17 front yard of a corner lot, and it was extremely -- it
18 was extremely visible.

19 These are very big pieces of property. The
20 houses set back, so the front yard is huge. And if
21 you are going to put a sport court in, I mean, it's
22 unfortunate the pool is there. It's right where it
23 goes. But I'm sure they don't want it in their front
24 yard either, but it is clearly the closest location of
25 the house without being beyond another building, the

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1 pool house building. And I don't know, are we
2 offended by the basketball poles?

3 MS. LONG: I'm not.

4 MS. PANKE: Do we not like the netting?

5 MR. ROTTMANN: Again if there is foliage
6 put out there.

7 MR. WELSH: With respect to the foliage,
8 this is a very densely wooded subdivision, and I'm
9 sure most of the neighbors are quite proud of the fact
10 that this is a densely wooded area, and who are we to
11 suggest exactly what foliage should go here if we
12 attach a condition approval of the variance upon
13 landscaping going into this particular project and
14 there is no expressed contemplation of which
15 vegetation would go in.

16 So on one hand I would favor anything that
17 would screen this. On the other hand, I'm not sure if
18 there is any evidence as to what would be proposed and
19 what would be acceptable to the property owners in the
20 subdivision.

21 CHAIRPERSON FORSHAW: Well, we have in the
22 past conditioned variances upon planting evergreens or
23 other types of vegetation, working with the city staff
24 to screen the project from street view.

25 MR. CRITCHFIELD: May I say something?

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1 Isn't there a landscape ordinance that talks about the
2 ratio of deciduous versus evergreen plants in the City
3 of Ladue? I think there is. And we would be
4 certainly willing to -- if the Stevens would like to
5 discuss putting plant material around, I think we
6 would certainly want to respect that ratio that's
7 noted in your zoning code.

8 MS. LONG: Correct me if I'm wrong. The
9 variance that we are asked to look at is whether or
10 not the sport court should be in the front yard. So
11 on this particular property we don't have great
12 precedence because the other one was such a different
13 situation that I think we need to back down and focus
14 on whether or not there are practical difficulties and
15 undue hardship. And I think I seem to go back to the
16 unusual nature of it.

17 The home is set back as far as it can be.
18 So you -- it can't go in the backyard. It can't go
19 where the pool is. You are not going to have it so
20 far away from the home so that would defeat the whole
21 purpose of having it within sight of family members or
22 something.

23 So even though I personally don't think
24 that we should be having sport courts in front yards,
25 this particular property I think is a burden.

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1 CHAIRPERSON FORSHAW: I agree. We in
2 general don't want to have sport courts in front
3 yards, and I'm a little torn about this because it
4 apparently is possible to locate the sport court not
5 in the front yard on another section of the property.
6 I guess the arguments against moving the sports court
7 to the west include the fact that it would be more --
8 it would be more obtrusive to the neighbor to the
9 north, the Wellfords. And I guess you would lose some
10 more trees.

11 MR. WELSH: And watching the children.

12 CHAIRPERSON FORSHAW: Of course we all know
13 there is nothing essential about having a sports
14 court. It's not a necessity for modern life the way
15 they -- a two-car garage is. But there are, you know,
16 various considerations here that it has to be
17 balanced.

18 MR. WELSH: That was going to be my point.
19 I would agree with you, Laura, that the standard of
20 practical difficulty or undue hardship, and we are
21 looking at it with no difficulty or undue hardship to
22 put in a sports court in this particular location.
23 And with the ability to locate it in a different area
24 of this particular tract of real estate, to me that
25 strikes in favor of not having enough evidence to meet

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1 that burden. Particularly when there isn't evidence
2 that all the individuals who are going to be
3 locating -- going to be driving through this real
4 estate have consented to it.

5 CHAIRPERSON FORSHAW: That is worrisome.

6 MS. LONG: Are there special use permits
7 and things?

8 MR. WELSH: I didn't say that to suggest
9 that's something that the movement would have to meet.
10 If there are individuals who would be driving by the
11 sports court, I might be persuaded in that respect.

12 MS. PANKE: To move it to the east of the
13 house, that's a geographical challenge.

14 CHAIRPERSON FORSHAW: Topographical.

15 MS. PANKE: Topographical.

16 MR. WELSH: I would agree with that. It
17 does drop off and there is a storm water runoff
18 situation on that side. It really can only go where
19 they are currently contemplating it, or immediately to
20 the west.

21 MR. CRITCHFIELD: Something I think is not
22 clear on this property, on this plat, and I would like
23 to bring this up, because I just spoke to Greg about
24 this.

25 This property over here is also owned by

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1 the Stevens, but it's a separate parcel. So, you
2 know, the property line, even though it's not clear
3 here exactly where it is, this property line is the
4 property line for this parcel, and this is a separate
5 parcel. These are not consolidated, which I think --
6 we just realized that.

7 So by putting this over here, that would be
8 a totally different situation. Then this would be on
9 a different parcel. So we are asking to have this
10 placed on this parcel, not on this parcel.

11 CHAIRPERSON FORSHAW: You are saying you
12 currently have the ability to sell this undeveloped
13 lot?

14 MR. WELSH: Really the analysis would
15 remove the ability to locate it over here.

16 MR. CRITCHFIELD: That's right. It's a
17 separate parcel.

18 MR. WELSH: It doesn't change the fact that
19 it's still -- what you are still proposing is the
20 front yard in the front.

21 MR. CRITCHFIELD: The front yard of Number
22 1 Glenview.

23 MR. ROTTMANN: Is this a different address?

24 MR. CRITCHFIELD: That is Number 3. And
25 it's a separate parcel, and they are not consolidated.

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1 They are separate. They are owned by the Stevens,
2 both of them, but they are not consolidated.

3 MR. ROTTMANN: You could sell this and have
4 somebody else put a house on it?

5 MR. CRITCHFIELD: Yes. So, you know, based
6 on that, your comment about flipping it over and
7 putting it over to the west really can't apply in this
8 situation.

9 MR. WELSH: Well, it can apply.

10 MR. CRITCHFIELD: It would, but it would be
11 under a separate project.

12 MS. PANKE: You wouldn't need a variance.

13 MR. CRITCHFIELD: But could you put an
14 accessory structure on that project and nothing else?

15 MS. LAMITOLA: No.

16 CHAIRPERSON FORSHAW: It would have to have
17 a building. That is a good point. Well, I do
18 think -- I mean, based on my viewing of the site that
19 there are elements of this sport court that would be
20 visible from the street. And that if we are to
21 approve this variance it ought to be conditioned on
22 planting some screening.

23 MR. ROTTMANN: What about getting the
24 approval of the neighbor, can you do that?

25 MS. LONG: Can you tell how far it is from

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1 that street?

2 MS. PANKE: It's 238 feet.

3 MR. WELSH: So the street comes along here
4 and then turns back up and goes up the hill to where
5 there are two other property owners.

6 CHAIRPERSON FORSHAW: I suppose there is
7 another option that we can consider here, which is to
8 grant a continuance and ask you to seek the support of
9 the neighbor who apparently didn't get a notice.

10 MR. WELSH: Yeah. That's consistent with
11 my --

12 MS. PANKE: They weren't on the list.

13 MR. WELSH: As I indicated before, I would
14 probably be persuaded off of the point where I am
15 right now if I knew that the other two property owners
16 were okay with this project, and I don't know that
17 right now. I know that's not the end-all be-all to
18 the analysis, but it certainly would be relevant.

19 I have concerns about the precedential
20 effect of putting a sport court in.

21 CHAIRPERSON FORSHAW: And I do too,
22 honestly.

23 MR. WELSH: And the standard is practical
24 difficulty and undue hardship, and there isn't a very
25 strong showing of either in this particular

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1 contemplated use.

2 MR. CRITCHFIELD: Isn't the practical
3 hardship due to the fact that the house sits so back
4 from the property that the front yard is artificially
5 deep?

6 MR. WELSH: That's your argument.

7 MS. LONG: I guess I have said what I see
8 under the four corners of the application. It's
9 practical difficulty or undue hardship. And I think
10 based on the location of this property and the
11 conditions and there is a lot of vegetation around it
12 and property in the parcel we could allow it. But
13 that's my position.

14 MR. WELSH: If that is what you intend to
15 move then you might consider conditioning it upon
16 reasonable vegetation pursuant to the landscape plan.

17 MS. LONG: I think it would have to have
18 vegetation pursuant to the landscaping plan.

19 MR. WELSH: I mean, actually adding in
20 vegetation to screen the structure.

21 MR. ROTTMANN: Can I have a point of
22 clarification? Do I understand, he couldn't build
23 this on this property unless there is a house on it?
24 Is that right, Will?

25 MR. PENNEY: You can't build an accessory

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1 structure unless it has the main structure.

2 MR. ROTTMANN: So that in essence takes
3 that off of the table.

4 MS. SUKANEK: I think we need some
5 clarification where the property line is.

6 MR. CRITCHFIELD: Unfortunately it's not
7 clear on there. But when the Stevens received the
8 building permit for the construction of their swimming
9 pool, the property line unfortunately is not shown on
10 there, is immediately behind the swimming pool pool
11 house.

12 MR. ROTTMANN: To the west?

13 MR. CRITCHFIELD: To the west, right. So
14 for example, for the sake of exercise, if you want to
15 relocate the sports court to that flat open area to
16 the west, that would be on lot Number 3 Glenview. It
17 would not be on lot Number 1 Glenview.

18 MR. ROTTMANN: So it takes that option off
19 the table.

20 MR. CRITCHFIELD: Yes.

21 CHAIRPERSON FORSHAW: Well, I would point
22 out that you do have to have four out of five of our
23 votes to get a variance, and I'm not sure you have
24 that today. But if you would like to request a
25 continuance in order to seek the support of this

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1 neighbor who hasn't been notified, you could come back
2 next month and submit it to a vote again.

3 MS. PANKE: Showing that it had been shown
4 to a neighbor.

5 CHAIRPERSON FORSHAW: If we vote no today,
6 if I understand our procedure, you can't come back for
7 another six months.

8 MR. STEVENS: I have no problem sharing it
9 with my neighbor. They have children, and I'm sure
10 they will be agreeable to it. I don't think that
11 would be an obstacle for us at all. If you would like
12 me to get their approval, I will do that.

13 MR. ROTTMANN: Do we have any letters from
14 any of these --

15 CHAIRPERSON FORSHAW: No.

16 MR. ROTTMANN: I don't think we did.

17 MR. WELSH: There are no objection letters
18 in the file.

19 MR. CRITCHFIELD: May I ask a question.

20 CHAIRPERSON FORSHAW: Yes.

21 MR. CRITCHFIELD: As an alternate to the
22 continuance, if there was a conditional variance with
23 the landscaping around it, around the sports court,
24 would that be acceptable?

25 CHAIRPERSON FORSHAW: I think a couple of

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1 us are just uncomfortable with the fact that there is
2 an affected homeowner who hasn't had notice of this.

3 MS. LAMITOLA: Can I get the address of
4 that property?

5 MR. STEVENS: I don't know their street
6 number. Bill and Sharon Remis. They should be
7 listed.

8 MR. WELSH: There was one other homeowner
9 up here as well. What were their names?

10 MR. STEVENS: The trustee, Jim White and
11 Nancy Schmidt. He is a head trustee as well -- he is
12 not a head trustee, but he knows.

13 MR. ROTTMANN: I don't see his name on
14 here.

15 MR. WELSH: He probably knows about it.

16 CHAIRPERSON FORSHAW: We were told the
17 trustees approved the plans.

18 MR. ROTTMANN: I think I would like to see
19 a letter from each one of them for the file.

20 CHAIRPERSON FORSHAW: Would you like to
21 request a continuance?

22 MR. STEVENS: Sure. You want me to ask
23 each one of them to write a letter to anybody who
24 would could possibly see it?

25 MR. ROTTMANN: Your neighbors.

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1 CHAIRPERSON FORSHAW: It's just that a
2 sports court in the front yard is a very unusual thing
3 in Ladue. It's not something we want to proliferate.
4 It definitely affects people's views from the
5 street -- of the street, and we have to be very
6 careful about creating any precedence about it.

7 So, if we hereby grant you a continuance,
8 and you may return in the future, after, you know,
9 getting the reactions of these other neighbors who
10 didn't get notice.

11 MR. PENNEY: Can we also request a revised
12 site plan that reflects the actual lot?

13 MR. CRITCHFIELD: We will get you a revised
14 site plan that clearly delineates the boundary line
15 between 1 and 3.

16 CHAIRPERSON FORSHAW: That would be
17 helpful.

18 MR. WELSH: If you are talking to your
19 neighbors, and it sounds like you will be, you may
20 also talk to them about what landscaping they might
21 envision making it a more appealing project as well.

22 Glenview is a beautiful subdivision, and
23 it's very wooded. I don't know necessarily what they
24 might want, or what the overall subdivision might want
25 with respect to screening, if anything. Maybe

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1 nothing. Maybe something in particular.

2 MR. ROTTMANN: I would ask the trustees

3 also.

4 MR. STEVENS: That sounds workable. Can we
5 get on your schedule again in a month?

6 CHAIRPERSON FORSHAW: Can they get on the
7 agenda for next month?

8 MS. LAMITOLA: I don't know.

9 MR. CRITCHFIELD: Is today the deadline for
10 March?

11 MS. LAMITOLA: Yes.

12 CHAIRPERSON FORSHAW: Thank you.

13 MS. LAMITOLA: We think we might have one
14 opening.

15 CHAIRPERSON FORSHAW: Next month.

16 MR. CRITCHFIELD: Thank you.

17 CHAIRPERSON FORSHAW: Thank you.

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CERTIFICATE OF REPORTER

I, Bobbie L. Lubber, Registered Professional
Reporter, Certified Court Reporter, and Notary Public
within and for the State of Missouri, do hereby
certify that the meeting aforementioned was held on
the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal.

Bobbie L. Lubber, RPR, CCR #621